

# **Exhibit 1**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ELOY ORTIZ OAKLEY, in his official  
capacity as Chancellor of California  
Community Colleges et al.,

Plaintiffs,

v.

BETSY DEVOS, in her official capacity as  
the United States Secretary of Education;  
U.S. DEPARTMENT OF EDUCATION,

Defendants.

Case No. 20-cv-03215-YGR

**BRIEF OF AMICI CURIAE CALIFORNIA  
COMMUNITY COLLEGES &  
COMMUNITY COLLEGE DISTRICTS IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

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## **INTEREST OF AMICI CURIAE**

Amici curiae are nine California community colleges or community college districts, educating over 325,000 Californians annually. Each institution is committed to providing low- or no-cost postsecondary education to all members of their communities, regardless of income level, immigration status, previous educational access/attainment, or any other status that can be used to divide individuals from one another. Below are separate interest statements from each amicus organization.<sup>1</sup>

### **Cabrillo College**

Cabrillo College is a single-college community college district serving the Santa Cruz County region and portions of San Benito and Monterey County on California's coast. The College's mission is to empower students to be effective communicators, critical thinkers, and responsible world citizens. The College is committed to quality and equity, connecting all learners to pathways that propel them from where they are to where they aspire to be, including: academic, personal, and career growth. The college serves more than 17,000 students annually, including 40% who are the first generation in their family to attend college. The largest feeder high schools are located in Watsonville, a city in southern Santa Cruz County that has an economy predominantly focused on agriculture, food production, and distribution. Because of its location, Cabrillo College serves a disproportionately large share of students from migrant labor and farm labor backgrounds. Many students in the community depend upon the free access the College provides through the California Promise Program (which provides two years of free tuition for high school graduates) or through the state of California's fee waiver program. Based on data received from the College, it could only confirm that approximately 3,000 of the more than 17,000 students it serves are eligible to receive Higher Education Emergency Relief Funds according to the Department of Education's guidance. This forced the College to pursue external funding from local donors for students who would otherwise be left out, including those without

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<sup>1</sup> As governmental entities, Amici need not file disclosure statements under Federal Rule of Civil Procedure 7.1 or Civil Local Rule 3-15. This brief was authored by *pro bono* counsel from the law firm Lieff Cabraser Heimann & Bernstein, LLP. No party contributed to the drafting or funding of this brief.

1 Social Security numbers, those who have not applied for federal financial aid, immigrants,  
 2 children of immigrants, and others ineligible for federal financial aid but struggling to meet the  
 3 high cost of living in the region.

4 **Grossmont-Cuyamaca Community College District**

5 The Grossmont-Cuyamaca Community College District serves 1,138 square miles in  
 6 eastern San Diego County, including four cities and numerous rural communities. The district has  
 7 two colleges: Grossmont College in El Cajon, and Cuyamaca College in unincorporated Rancho  
 8 San Diego. The district serves more than 27,000 students, including a substantial population of  
 9 Iraqi refugees and several hundred international students. The district estimates that  
 10 approximately 19,000 of its students do not meet the Department of Education's aid criteria. The  
 11 student population is 36% Hispanic and about 5% Asian-Pacific Islander. Both Grossmont and  
 12 Cuyamaca Colleges have been designated as Hispanic-Serving Institutions.<sup>2</sup> The district is  
 13 committed to providing learning and working environments that ensure and promote diversity,  
 14 equity, and inclusion. People of diverse backgrounds, perspectives, socioeconomic levels,  
 15 cultures, and abilities are valued and welcomed.

16 **Rancho Santiago Community College District**

17 Rancho Santiago Community College District ("RSCCD") is one of the largest  
 18 community college districts in the state of California serving over 770,000 residents in the cities  
 19 of Santa Ana, Orange, Garden Grove, and Westminster in Orange County. The RSCCD is a  
 20 Hispanic-Serving Institution and has two colleges: Santa Ana College and Santiago Canyon  
 21 College, which provide over 50,000 students with education for academic transfer and careers,  
 22 courses for personal and professional development, and customized training for business and  
 23 industry. In addition to the Santa Ana College and Santiago Canyon College campuses, the  
 24 district's facilities include the Centennial and Orange Continuing Education Centers, the Digital  
 25 Media Center, the Joint Powers Fire Training Center, the Orange County Sheriff's Regional  
 26 Training Academy, and the College and Workforce Preparation Center.

27 \_\_\_\_\_  
 28 <sup>2</sup> "Hispanic-Serving Institution" is a U.S. Department of Education designation, defined in 20  
 U.S.C. § 1101a.

1 The mission of the RSCCD is to provide quality educational programs and services that  
 2 address the needs of its diverse students and communities. More than 80% of the district's  
 3 students come from traditionally underserved backgrounds and receive financial aid. Based on  
 4 the U.S. Department of Education's guidelines, only 3,480 of the more than 50,000 students the  
 5 RSCCD serves are eligible to receive Higher Education Emergency Relief Funds. This has forced  
 6 both colleges to pursue other funding options for those students excluded by the U.S. Department  
 7 of Education's guidelines, including veterans, those who have not applied for federal financial  
 8 aid, immigrants, children of immigrants, those who do not have Social Security numbers, and  
 9 others ineligible for financial aid but struggling to meet the high cost of living in the Orange  
 10 County region.

11 **Río Hondo Community College District**

12 The Río Hondo Community College District is a single-college district in southeastern  
 13 Los Angeles County. The District serves the cities of El Monte, South El Monte, Pico Rivera,  
 14 Santa Fe Springs, and Whittier, portions of Norwalk, Downey, La Mirada, and the City of  
 15 Industry, along with surrounding unincorporated communities. Today, Río Hondo enrolls nearly  
 16 20,000 students per semester at the main campus and at its off-site locations. Río Hondo College  
 17 is designated as a Hispanic-Serving Institution with over 80% Latinx students and nearly 90%  
 18 students of color. Río Hondo serves primarily non-traditional and vulnerable populations  
 19 including first-generation, low-income, and housing- and food-insecure students. More  
 20 importantly, the undocumented students, veterans, dual-enrollment, and non-credit students at Río  
 21 Hondo were excluded from the federal funding guidelines propounded by Department of  
 22 Education, which means that nearly 4,500 of Río Hondo's neediest students were ineligible for  
 23 Higher Education Emergency Relief Funds. The intent of these restrictive guidelines is  
 24 antithetical to Río Hondo's mission, which is a "commitment to the success of [its] diverse  
 25 students and communities by providing dynamic educational opportunities and resources." If not  
 26 for emergency support from the Río Hondo College Foundation, AB 19 and AB 943 funds, and  
 27 additional District resources, many of Río Hondo's students would be facing even more severe  
 28 challenges exacerbated by COVID-19. These challenges include food and housing insecurity,

1 transportation gaps, medical costs, and dependent care expenses. The Río Hondo Community  
 2 College District joins this lawsuit as advocates for its students and their families who have been  
 3 disproportionately affected by COVID-19.

4 **San Francisco Community College District**

5 The San Francisco Community College District serves over 62,000 students annually in  
 6 multiple locations of the City College of San Francisco (“CCSF”) throughout the city. The  
 7 student population is 32% Asian-Pacific Islander, 27% Latino, 6% African-American, and about  
 8 4% Filipino. CCSF has been designated as a Hispanic-Serving Institution. Additionally,  
 9 thousands of CCSF students report citizenship status other than that of being a US citizen. CCSF  
 10 has one of the largest English as a Second Language programs among all California community  
 11 colleges, enrolling approximately 18,000 students annually. CCSF is committed to providing  
 12 learning and working environments that ensure and promote diversity, equity, and inclusion.  
 13 People of diverse backgrounds, perspectives, socioeconomic levels, cultures, and abilities are  
 14 valued and welcomed. CCSF belongs to the community and continually strives to provide an  
 15 accessible, affordable, and high-quality education to all its students. CCSF is committed to  
 16 providing an array of academic and student development services that support students’ success  
 17 in attaining their academic, cultural, and civic achievements. To enhance student success and  
 18 close equity achievement gaps, the college identifies and regularly assesses student learning  
 19 outcomes to improve institutional effectiveness.

20 **San Jose – Evergreen Community College District**

21 San Jose – Evergreen Community College District (“SJECCD”) has provided innovative  
 22 educational programs and services to residents of San Jose, Milpitas, and the broader Silicon  
 23 Valley region for almost 100 years. Each year, nearly 30,000 students are enrolled in SJECCD’s  
 24 two colleges, San Jose City College and Evergreen Valley College. Through its core values of  
 25 Opportunity, Equity, and Social Justice, SJECCD is committed to student success. SJECCD  
 26 serves a very diverse student population, with more than 90% of its students coming from  
 27 traditionally underserved backgrounds and more than half of its students receiving financial aid.  
 28 Additionally, thousands of SJECCD students report citizenship status other than that of being a

U.S. citizen. According to a recent survey, more than half of SJECCD students face food insecurity while more than 60% deal with housing insecurity or homelessness. SJECCD is committed to serving all students, regardless of socioeconomic or citizenship status, and providing them with the skills, knowledge, and training necessary to successfully fulfill their academic goals and enter the workforce.

**Santa Monica Community College District**

Santa Monica Community College District, which operates Santa Monica College, proudly serves a college population of 31,500 students from across the Los Angeles metropolitan region and from around the world. It provides a safe, inclusive, and dynamic learning environment that encourages personal and intellectual exploration—one that challenges and supports students in achieving their educational goals. Students learn to contribute to the local and global community as they develop an understanding of their relationship to diverse social, cultural, political, economic, technological, and natural environments. The College recognizes that each individual makes a critical contribution to the achievement of the College’s mission.

Santa Monica College is a nationally recognized Hispanic-serving Institution and has transferred more students to University of California campuses than any other college in the country for 28 consecutive years. Among community colleges in the nation, Santa Monica ranks third in the number of international students served with over 2,500 students from over 100 countries. Fifty percent of its students receive financial aid and 52% are first-generation college students. The Santa Monica College Dream program provides student support services to hundreds of undocumented students, many of whom graduate from or transfer to four-year institutions.

The global pandemic has created major hardships for Santa Monica College students and many are in financial peril. Santa Monica College’s commitment to inclusivity dictates that all students in financial need should be eligible for direct student aid under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. However, restrictions on the use of CARES Act direct student aid have excluded or delayed aid to many students, including:

- 1,038 Deferred Action for Childhood Arrivals/undocumented students;



- 2,530 international students who, because of travel restrictions, have no ability to return home and, in some cases, are on the verge of homelessness;
- 165 students with other non-immigrant visas who are unable to establish residency
- 3,365 noncredit students;
- Approximately 50% of all students who have not completed the Free Application for Federal Student Aid (FAFSA);
- Title IV-eligible students taking fewer than 6 units;
- Title IV-eligible students with satisfactory academic progress issues;
- Students who hold bachelor's degrees—many of whom return to college for workforce training; and
- Students who have exceeded maximum federal aid limits.

### **South Orange County Community College District**

South Orange County Community College District (“SOCCCD”) encompasses 382 square miles in south Orange County, serving over 909,000 residents in 26 communities, with approximately 61,000 students enrolled annually. SOCCCD knows that higher education is directly linked to quality of life and economic vitality. SOCCCD has helped generations of families achieve their educational and career goals since 1967.

Each student, instructor, staff member, and administrator plays a critical role in maintaining and strengthening a welcoming environment in which all feel valued for their individual experiences and contributions. SOCCCD acknowledges and celebrates the ways in which differences help the collective achieve greater success. One in five students at SOCCCD’s Irvine Valley College and one in six students at SOCCD’s Saddleback College are first-generation students. Among these first-generation college students attending SOCCCD, 41% at Irvine Valley College and 32% at Saddleback College qualify as economically disadvantaged. SOCCD is also ethnically diverse, with about one-third of students identifying as Latinx.

### **Southwestern Community College District**

Southwestern Community College District (“SWCCD”) is a leader in equitable education that transforms the lives of students and communities through its values of equity, inclusionary practices, and student success. SWCCD is the only institution of higher education in South San Diego County and serves more than 28,000 students annually across four locations—National City, its largest campus in Chula Vista, and two locations on the US/Mexico border (San Ysidro and Otay Mesa). Southwestern College is a Hispanic-Serving Institution, Asian American and

1 Native American Pacific Islander-Serving Institution,<sup>3</sup> and a Minority Serving Institution with  
2 over 67% of students identifying as Hispanic, and 89% overall diverse. SWCCD provides degrees  
3 and certificates in high-quality programs and fields that lead to transfer and/or employment that  
4 earns a livable wage; comprehensive support services, including health and physical and mental  
5 health wellness; a Dreamer's Center; and an institutional grant and services program (known as  
6 SWC Cares) for students who experience hunger, homelessness, and other basic needs  
7 insecurities. In a recent survey of basic needs at SWCCD, findings confirmed that 54.2% of  
8 students are suffering from at least two acute basic insecurities. More than 70% of students served  
9 by the SWCCD qualify for financial aid. By excluding undocumented students, continuing  
10 education (noncredit) students, and justice-impacted students—who are among the college's  
11 neediest students—the Department of Education's policy perpetuates inequities in education and  
12 society.

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<sup>3</sup> “Asian American and Native American Pacific Islander-Serving Institution” is a U.S. Department of Education designation, defined in 20 U.S.C. § 1059g.

1 **I. INTRODUCTION**

2 The COVID-19 pandemic is a tragedy. More than 100,000 Americans have died to date,  
 3 and efforts to contain the disease have disrupted our society in ways unprecedented in most  
 4 Americans' living memory. Like so many businesses and institutions across the United States,  
 5 California's community colleges have shifted to an online platform to continue to serve their  
 6 constituents while protecting public health. From additional technology to childcare, students  
 7 require greater resources than ever to continue their studies at this difficult time, and those  
 8 students who do not meet the unlawful Higher Education Emergency Relief Funds ("HEERF")  
 9 Eligibility Requirements propounded by the U.S. Department of Education ("Department") are  
 10 often in the greatest need. With the Coronavirus Aid, Relief, and Economic Security ("CARES")  
 11 Act, Congress wisely committed distribution of HEERF aid to the discretion of institutions of  
 12 higher learning—that is, to those who know best how to help their students. The  
 13 Department's unlawful HEERF Eligibility Requirements have, in many cases, delayed or deterred  
 14 distribution of aid to the neediest among Amici's students. For those students who have been  
 15 unable to participate in online instruction, irreparable harm has already been done. With each day  
 16 that passes without distribution of aid, that harm grows, as additional students are unable to  
 17 continue attending online courses and fall behind their more economically privileged peers.  
 18 California's most vulnerable community college students cannot wait for relief, and a preliminary  
 19 injunction is warranted.

20 Plaintiffs have more than satisfied the legal standard for a preliminary injunction. Amici,  
 21 nine California community colleges or community college districts serving over 325,000 students  
 22 annually, write separately to amplify the serious impacts the HEERF Eligibility Requirements  
 23 will cause to those most vulnerable, including undocumented students, in California's community  
 24 college system.

25 **II. ARGUMENT**

26 As explained herein, Amici and all California community colleges are dedicated to  
 27 providing equal opportunities for all students to achieve their full potential and contribute to  
 28 California's economic engine. Distinguishing between students based on the Department's

1 unlawful HEERF Eligibility Requirements undermines Amici’s mission. The Requirements force  
 2 Amici to disfavor and deny aid to those most vulnerable among their students. If Amici and all  
 3 California community colleges are unable to distribute aid to those most in need, including their  
 4 undocumented students, there is a tremendous risk that these students will disproportionately  
 5 suffer myriad obstacles to accessing and satisfying academic requirements that cause them to fall  
 6 behind or discontinue their studies, further exacerbating educational and economic inequality in  
 7 California. In sum, the Department’s obstruction of the HEERF program will create even more  
 8 victims of the COVID-19 pandemic. A preliminary injunction, allowing Amici and all California  
 9 community colleges to distribute needed aid as Congress intended, will prevent this irreparable  
 10 harm.

11 **A. California community colleges are dedicated to open access to higher**  
 12 **education and providing social mobility to Californians of all backgrounds.**

13 Amici, like all California community colleges, are uniformly committed to providing a  
 14 diverse range of high-quality postsecondary education—from liberal arts or sciences, to  
 15 vocational training—to all members of their communities regardless of background. Amici  
 16 disproportionately serve low-income students, first-generation college students, students of color,  
 17 and undocumented students, including Deferred Action for Childhood Arrivals (“DACA”)  
 18 recipients. By providing these students with low- or no-cost postsecondary education, Amici  
 19 ensure that those members of their communities with the fewest resources still have a chance to  
 20 achieve their educational and professional ambitions. In this way, California community colleges  
 21 form the bedrock of the state’s higher education system, providing opportunity for anyone  
 22 interested in learning.

23 By statute, “California Community Colleges shall, as a primary mission, offer academic  
 24 and vocational instruction at the lower division level for both younger and older students,  
 25 including those persons returning to school,” those in need of “remedial instruction,” those  
 26 requiring “instruction in English as a second language,” and those seeking “adult noncredit  
 27 instruction.” Cal. Educ. Code § 66010.4(a)(1)-(2)(A). In other words, it is the public policy of  
 28 the State of California that its community colleges should be available to *any* individual interested

1 in attaining higher education. This principle of open access that is enshrined in California law  
 2 affirmatively applies to the undocumented students whom the Department’s unlawful HEERF  
 3 Eligibility Requirements target. *See, e.g.*, Cal. Educ. Code § 66251 (“It is the policy of the State  
 4 of California to afford all persons, regardless of . . . immigration status, equal rights and  
 5 opportunities in the postsecondary educational institutions of the state.”); *id.* § 68130.5(a),  
 6 (a)(2)(C)(ii)(4) (ensuring that “person[s] without lawful immigration status” are “exempt from  
 7 paying nonresident tuition”). Likewise, the Board of Governors of California Community  
 8 Colleges has declared as its official policy that all “community colleges remain open, safe and  
 9 welcoming to all students who meet the minimum requirements for admission, regardless of  
 10 immigration status.” Resolution of the Board of Governors, No. 2017-01 (Jan. 17, 2017), ECF  
 11 No. 16-3 at 20.

12 Maintaining educational access is essential to the community colleges’ other “primary  
 13 mission,” as defined by statute: “to advance California’s economic growth and global  
 14 competitiveness through education, training, and services that contribute to continuous work force  
 15 improvement.” *Id.* § 66010.4(a)(3). Open access to the community college system ensures a  
 16 pathway for anyone, regardless of income, immigration status, or the high school he or she  
 17 attended to achieve the skills necessary to become productive members of California’s workforce  
 18 and contribute to California’s economic success. In fact, the community college system offers  
 19 unparalleled opportunities, including low- or no-cost coursework toward a four-year degree,  
 20 educational training for nurses and other health care professionals, vocational training adapted to  
 21 California professions and trades, second career training, and English as a second language,  
 22 among many others. It is a key driver of economic growth and upward mobility.<sup>4</sup>

23 California’s community college system is also an important pipeline to the University of  
 24 California and the California State University systems, particularly for students from less  
 25 advantaged backgrounds. During the 2017 to 2018 academic year, 85,870 California community

26  
 27 <sup>4</sup> *See, e.g.*, Jack Mountjoy, Community Colleges and Upward Mobility (Feb. 26, 2019), at 55,  
 28 available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3373801](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3373801) (empirical economic  
 analysis finding that “disadvantaged students reap large earnings returns to 2-year entry”—*i.e.*,  
 community college attendance).

college students transferred to University of California or California State University campuses.<sup>5</sup> This is by design. The University of California maintains a “goal of enrolling a 2:1 ratio of freshmen to transfer” students from community colleges, and six University of California campuses offer a Transfer Admission Guarantee program for California community college students who meet certain requirements.<sup>6</sup> The community college system thus provides a low- or no-cost pathway for students to enroll at the University of California regardless of resources available to them in high school, where differences in educational opportunity, whether in the form of college counseling, advanced placement courses, or otherwise, are stark.<sup>7</sup> California’s community colleges provide excellent education in their own right, but they also are an important avenue of access to institutions granting bachelor’s degrees and beyond.

Community colleges are a safety net offering workforce training, continuing education, and a pathway to further educational attainment. Amici, like all community colleges in California, are committed to maintaining an open door to all members of their communities and, in particular, to those students who have the fewest resources.

**B. The Department’s unlawful HEERF Eligibility Requirements will deny access to education to those most vulnerable, undermining the mission of California community colleges and causing irreparable harm.**

While Amici and all California community colleges are dedicated to educational access regardless of background, the Department’s unlawful HEERF Eligibility Requirements are not. These requirements single out numerous categories of students, in particular undocumented

<sup>5</sup> See Cal. Cmty. Colleges Chancellor’s Office, *2019 State of the System Report*, at 9, available at <https://www.cccco.edu/-/media/CCCCO-Website/About-Us/State-of-the-System/Files/2019-sos-final-web.pdf?la=en&hash=C037EB2219343CEDEF2CF08485AC6911839129A6>. During the 2017 to 2018 academic year, another 40,196 students transferred to in-state private institutions and out-of-state institutions. *Id.*

<sup>6</sup> Univ. of Cal., *Accountability Report 2019*, Ch. 1, available at <https://accountability.universityofcalifornia.edu/2019/chapters/chapter-1.html>; Univ. of Cal., *Transfer admission guarantee (TAG)*, available at <https://admission.universityofcalifornia.edu/admission-requirements/transfer-requirements/transfer-admission-guarantee-tag.html> (last accessed May 29, 2020).

<sup>7</sup> See, e.g., David Leonhardt, *California’s Upward-Mobility Machine*, N.Y. Times (Sep. 16, 2015), available at <https://www.nytimes.com/2015/09/17/upshot/californias-university-system-an-upward-mobility-machine.html> (“The transfer pipeline is crucial, because many highly qualified low-income students—unaware of how much financial aid is available at some four-year colleges—first enroll at a local community college, where published tuition tends to be low.”)

1 students (whether or not they are DACA recipients), students with pending asylum applications,  
 2 students with Temporary Protected Status or Deferred Enforced Departure status, and students  
 3 with U-visas (offered to victims of crime who provide assistance to law enforcement agencies).  
 4 *See* 20 U.S.C. § 1091; *see also* 8 U.S.C. § 1611.<sup>8</sup> These targeted students are in many cases the  
 5 students in greatest need for aid funds that can be used to maintain access to distance learning  
 6 during the COVID-19 pandemic. Singling out the most vulnerable students for disparate  
 7 treatment is anathema to the overall mission of the California community college system.

8 Further, as Plaintiffs have demonstrated, accurately identifying which students meet the  
 9 unlawful HEERF Eligibility Requirements is tremendously challenging. *See, e.g.,* Decl. of Mario  
 10 Rodriguez ISO Pls.’ Mot. for Prelim. Inj., at ¶ 8, ECF No. 16-4 (“It is next to impossible to  
 11 determine if each of the 58,000 students we sought to provide these funds to were eligible for  
 12 federal financial aid unless they filled out the FAFSA and were determined to be eligible. Such  
 13 an undertaking would require manual review of each student’s records to ensure that aid was  
 14 distributed to the greatest amount of students possible while complying with DoE’s eligibility  
 15 requirements. This kind of review was simply infeasible given our limited resources and the  
 16 pressing needs of the student body.”). Amici echo these concerns. Given Amici’s limited  
 17 resources already maximally stretched by the COVID-19 pandemic—and the shift to a remote  
 18 working environment—it is not possible at this time to identify every student who meets the  
 19 unlawful HEERF Eligibility Requirements. In particular, it is not possible to do so on an  
 20 expedited schedule necessary to avoid disruption to students’ education. Thus, if distribution of  
 21 aid is subject to these unlawful requirements, it will necessarily be distributed only to a subset of  
 22 eligible students for whom it is possible to determine eligibility in short order—*i.e.*, even fewer  
 23 than just those students who are eligible under the current guidelines.

24 Were Amici and California community colleges required to deny aid to their most

25 <sup>8</sup> While Amici highlight the effect on undocumented students, there are numerous other  
 26 categories of vulnerable students targeted by the unlawful HEERF Eligibility Requirements  
 27 whom Amici and all California community colleges are dedicated to serving. These students  
 28 include: students who do not have a high school diploma or General Education Development  
 certificate; students enrolled in only non-credit (but nevertheless enriching and skill-generating)  
 courses; students who have not maintained a “C” average or above by the end of their second  
 year; and students in default on a federal student loan. *See* 20 U.S.C. § 1091(a)-(d).



1 vulnerable students (as some have already been required to do, where they have not been able to  
 2 access other financial resources), these students will face an increased risk of disruption to their  
 3 education. Case law makes clear that disruption to education may constitute an “irreparable  
 4 injury.” *See, e.g., C.Q. v. River Springs Charter Schs.*, No. 18-1017, 2018 WL 5936665, at \*2  
 5 n.1 (C.D. Cal. May 18, 2018) (“[T]he several month disruption in C.Q.’s education while this  
 6 dispute is resolved qualifies as irreparable harm . . . .”); *Van Scoy ex rel. Van Scoy v. San Luis*  
 7 *Coastal Unified Sch. Dist.*, 353 F. Supp. 2d 1083, 1087 (C.D. Cal. 2005) (holding that with  
 8 “[e]very school day that passes” without the provision of certain needed services, “it is likely that  
 9 [the plaintiff] is falling further and further behind on his education goals . . . suggest[ing] a  
 10 likelihood that [his] education could be irreparably harmed”); *Berger v. Nat’l Bd. of Med.*  
 11 *Examiners*, No. 19-99, 2019 WL 4040576, at \*26 (S.D. Ohio Aug. 27, 2019) (“[T]his Court has  
 12 noted that irreparable injury may arise out of an interruption or suspension of higher education.”).  
 13 This is all the more true here, where the students whose education is at risk of disruption are those  
 14 with the fewest resources and thus those who may be least able to recover. Amici’s institutions—  
 15 and the California community college system in general—will also suffer irreparable harm from  
 16 disenrollment of their most vulnerable students, who are critical members of their diverse college  
 17 communities. *See Regents of Univ. of Cal. v. U.S. Dept. of Homeland Sec.*, 279 F. Supp. 3d 1011,  
 18 1046-47 (N.D. Cal. 2018) (finding that loss of “‘diversity and quality within the University  
 19 community’ are harms which are not compensable with monetary damages and therefore weigh in  
 20 favor of finding irreparable harm” (quoting *Hawaii v. Trump*, 878 F.3d 662 (9th Cir. 2017), *rev’d*  
 21 *on other grounds*, 138 U.S. 2392 (2018))). An injunction is undoubtedly “in the public interest,”  
 22 and Amici respectfully request that the Court grant Plaintiffs’ motion. *Winter v. Nat’l Res. Def.*  
 23 *Council, Inc.*, 555 U.S. 7, 20 (2008).

### 24 **III. CONCLUSION**

25 For the reasons stated above, Amici respectfully request that the Court grant Plaintiffs’  
 26 Motion for a Preliminary Injunction, thereby allowing Amici and all California community  
 27 colleges to distribute needed aid to their students at greatest risk of disenrollment, provide such  
 28 students with the resources necessary to access distance learning during the COVID-19 pandemic,



1 and ameliorate the risk that the current health crisis will irreparably worsen economic and  
2 educational inequality in the state of California.

3  
4  
5 Dated: June 1, 2020

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